

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 EB-08 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 /033 W

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FM AMEMBASSY BONN

TO SECSTATE WASHDC 1323

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E.O. 11652: N/A

TAGS: EAIR, GW, US

SUBJECT: CIVAIR: PAN AM IGS CLAIM

REF: A. STATE 215224 B. BONN 14593

1. DURING SEPTEMBER 9 CALL ON DEPUTY ASST SECRETARY MATHIAS, ECON-COMMERCIAL MINISTER-COUNSELLOR WAS PRESENT-ED INFORMAL PAPER UNOFFICIAL TRANSLATION OF WHICH FOLLOWS:

"THE FOREIGN OFFICE, IN AGREEMENT WITH THE FEDERAL MINISTRY OF TRANSPORTATION AS THE COMPETENT MINISTRY, HAS EXAMINED THOROUGHLY THE REQUEST OF THE EMBASSY OF THE UNITED STATES OF AMERICA FOR AN INFORMAL AND FRIENDLY SETTLEMENT OF THE CLAIMS OF PAN AMERICAN AIRLINES BASED ON ACTIONS OF THE GERMAN AIR TRAFFIC CONTROLLERS IN 1973. UNFORTUNATELY, THE FOREIGN OFFICE SEES NO OTHER POSSIBILITY BUT TO REFER PAN AMERICAN TO THE DOMESTIC LEGAL PROCESS IN THE FEDERAL REPUBLIC OF GERMANY."

2. HELD OF FOREIGN OFFICE ALSO PRESENT AND EXPLAINED THAT LEGAL EXPERTS OF FOREIGN OFFICE AND FEDERAL MINISTRY OF TRANSPORTATION (FMT) HAD CONSIDERED EMBASSY POSITION THAT RECIPROCITY REQUIREMENT MET BY FACT OF LIMITED OFFICIAL USE

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EQUAL ACCESS TO US COURTS BY GERMAN AND AMERICAN NATIONALS BUT HAD CONCLUDED THAT EQUAL ACCESS WAS NOT SUFFICIENT, THERE HAD ALSO TO BE A GUARANTEE IN LAW OF EQUAL TREATMENT.

3. ECON COMMERCIAL MINISTER MADE POINTS REF A, STRESSING USG BELIEF THAT RECIPROCITY REQUIREMENT MET

BY FEDERAL TORTS CLAIMS ACT AND SUGGESTED PROBLEM MIGHT BE INCOMPLETE UNDERSTANDING ON GERMAN SIDE OF US LEGAL SYSTEM. HE ALSO EMPHASIZED SPECIAL NATURE OF IGS AND FRG TREATY OBLIGATION TO FACILITATE BERLIN CIVIL AVIATION. HE UNDERTOOK TO SEEK FURTHER INFORMATION ON RIGHTS OF GERMAN NATIONALS IN THE US. HELD REPLIED THAT THE FOREIGN OFFICE WAS OPEN TO FURTHER INFORMATION AND ARGUMENTATION FROM THE USG AND PAN AM.

ACTION REQUESTED: EMBASSY BELIEVES WE SHOULD PURSUE AS VIGOROUSLY AS POSSIBLE THE OPENING LEFT CONCERNING RECIPROCITY. OUR INSTRUCTIONS REFER IN ONE PLACE TO EQUALITY OF ACCESS TO COURTS AND IN ANOTHER TO EQUALITY OF TREATMENT. WE SUSPECT THAT THE TWO TERMS ARE SYNONYMOUS BUT THIS MAY NOT BE ENTIRELY CLEAR TO THE FRG. WE WOULD APPRECIATE RECEIVING AS SOON AS POSSIBLE FURTHER GUIDANCE WITH ADDITIONAL DETAILS CONCERNING TREATMENT OF GERMAN CLAIMS WERE THEY TO BE PRESENTED BEFORE THE COURT OF CLAIMS. EXAMPLES WOULD BE PARTICULARLY USEFUL. WE FEEL IT IMPORTANT TO MAINTAIN A SENSE OF URGENCY ON THIS ISSUE AND FIND IT ESPECIALLY USEFUL TO COMMENT ON THE GERMAN POSITION IN ANOTHER WRITTEN COMMUNICATION TO THE FOREIGN MINISTRY.
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Sent Date: 09-Sep-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
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Disposition Approved on Date:
Disposition Case Number: n/a
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